

liquid securities) equal to at least six months' operating costs. If any portion of such financial resources is not sufficiently liquid, the swap data repository may take into account a committed line of credit or similar facility for the purpose of meeting this requirement.

(f) *Reporting requirements.* (1) Each fiscal quarter, or at any time upon Commission request, a registered swap data repository shall report to the Commission the amount of financial resources necessary to meet the requirements of paragraph (a), the value of each financial resource available, computed in accordance with the requirements of paragraph (d); and provide the Commission with a financial statement, including the balance sheet, income statement, and statement of cash flows of the swap data repository or of its parent company. Financial statements shall be prepared in conformity with generally accepted accounting principles (GAAP) applied on a basis consistent with that of the preceding financial statement.

(2) The calculations required by this paragraph shall be made as of the last business day of the swap data repository's fiscal quarter.

(3) The report shall be filed not later than 17 business days after the end of the swap data repository's fiscal quarter, or at such later time as the Commission may permit, in its discretion, upon request by the swap data repository.

#### **§ 49.26 Disclosure requirements of swap data repositories.**

Before accepting any swap data from a reporting entity or upon a reporting entity's request, a registered swap data repository shall furnish to the reporting entity a disclosure document that contains the following written information, which shall reasonably enable the reporting entity to identify and evaluate accurately the risks and costs associated with using the services of the swap data repository:

(a) The registered swap data repository's criteria for providing others with access to services offered and swap data maintained by the swap data repository;

(b) The registered swap data repository's criteria for those seeking to con-

nect to or link with the swap data repository;

(c) A description of the registered swap data repository's policies and procedures regarding its safeguarding of swap data and operational reliability to protect the confidentiality and security of such data, as described in § 49.24;

(d) The registered swap data repository's policies and procedures reasonably designed to protect the privacy of any and all swap data that the swap data repository receives from a reporting entity, as described in § 49.16;

(e) The registered swap data repository's policies and procedures regarding its non-commercial and/or commercial use of the swap data that it receives from a market participant, any registered entity, or any other person;

(f) The registered swap data repository's dispute resolution procedures;

(g) A description of all the registered swap data repository's services, including any ancillary services;

(h) The registered swap data repository's updated schedule of any fees, rates, dues, unbundled prices, or other charges for all of its services, including any ancillary services; any discounts or rebates offered; and the criteria to benefit from such discounts or rebates; and

(i) A description of the registered swap data repository's governance arrangements.

#### **§ 49.27 Access and fees.**

(a) *Fair, open and equal access.* (1) A registered swap data repository, consistent with Section 21 of the Act, shall provide its services to market participants, including but not limited to designated contract markets, swap execution facilities, derivatives clearing organizations, swap dealers, major swap participants and any other counterparties, on a fair, open and equal basis. For this purpose, a swap data repository shall not provide access to its services on a discriminatory basis but is required to provide its services to all market participants for swaps it accepts in an asset class.

(2) Consistent with the principles of open access set forth in paragraph (a)(1) of this Regulation, a registered swap data repository shall not tie or

bundle the offering of mandated regulatory services with other ancillary services that a swap data repository may provide to market participants.

(b) *Fees.* (1) Any fees or charges imposed by a registered swap data repository in connection with the reporting of swap data and any other supplemental or ancillary services provided by such swap data repository shall be equitable and established in a uniform and non-discriminatory manner. Fees or charges shall not be used as an artificial barrier to access to the swap data repository. Swap data repositories shall not offer preferential pricing arrangements to any market participant on any basis, including volume discounts or reductions unless such discounts or reductions apply to all market participants uniformly and are not otherwise established in a manner that would effectively limit the application of such discount or reduction to a select number of market participants.

(2) All fees or charges are to be fully disclosed and transparent to market participants. At a minimum, the registered swap data repository shall provide a schedule of fees and charges that is accessible by all market participants on its Web site.

(3) The Commission notes that it will not specifically approve the fees charged by registered swap data repositories. However, any and all fees charged by swap data repositories must be consistent with the principles set forth in paragraph (b)(1) of this section.

#### APPENDIX A TO PART 49—FORM SDR

##### COMMODITY FUTURES TRADING COMMISSION

##### FORM SDR

##### SWAP DATA REPOSITORY APPLICATION OR AMENDMENT TO APPLICATION FOR

##### REGISTRATION REGISTRATION INSTRUCTIONS

*Intentional misstatements or omissions of material fact may constitute federal criminal violations (7 U.S.C. §13 and 18 U.S.C. §1001) or grounds for disqualification from registration.*

##### DEFINITIONS

Unless the context requires otherwise, all terms used in this Form SDR have the same meaning as in the Commodity Exchange Act,

as amended, and in the Regulations of the Commission thereunder.

For the purposes of this Form SDR, the term “Applicant” shall include any applicant for registration as a swap data repository or any registered swap data repository that is amending Form SDR.

##### GENERAL INSTRUCTIONS

1. Form SDR and Exhibits thereto are to be filed with the Commodity Futures Trading Commission by Applicants for registration as a swap data repository, or by a registered swap data repository amending such registration, pursuant to Section 21 of the Commodity Exchange Act and the regulations thereunder. Upon the filing of an application for registration, the Commission will publish notice of the filing and afford interested persons an opportunity to submit written data, views and arguments concerning such application. No application for registration shall be effective unless the Commission, by order, grants such registration.

2. Individuals’ names shall be given in full (Last Name, First Name, Middle Name).

3. Signatures must accompany each copy of the Form SDR filed with the Commission. If this Form SDR is filed by a corporation, it must be signed in the name of the corporation by a principal officer duly authorized; if filed by a limited liability company, this Form SDR must be signed in the name of the limited liability company by a member duly authorized to sign on the limited liability company’s behalf; if filed by a partnership, this Form SDR must be signed in the name of the partnership by a general partner authorized; if filed by an unincorporated organization or association which is not a partnership, it must be signed in the name of the organization or association by the managing agent, i.e., a duly authorized person who directs, manages or who participates in the directing or managing of its affairs.

4. If Form SDR is being filed as an initial application for registration, all applicable items must be answered in full. If any item is not applicable, indicate by “none,” “not applicable,” or “N/A” as appropriate.

5. Under Section 21 of the Commodity Exchange Act and the regulations thereunder, the Commission is authorized to solicit the information required to be supplied by this form from Applicants for registration as a swap data repository and from registered swap data repositories amending their registration. Disclosure of the information specified on this form is mandatory prior to processing of an application for registration as a swap data repository. The information will be used for the principal purpose of determining whether the Commission should grant or deny registration to an Applicant. The Commission may determine that additional information is required from the Applicant in order to process its application.